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Pesticides & Toxic Substances Law News for April 19, 2018

**Bloomberg
Environment**

Environment & Energy

Highlights

LEADING THE NEWS

[Super Funds: Bitcoin Miners Wooed by Formerly Toxic GM Site](#)

By Sylvia Carignan

Bitcoin miners hope to strike a bonanza at the contaminated New York site where General Motors Co. once manufactured parts for its ill-fated Corvair.

[White House Will Investigate Pruitt's \\$43,000 Secure Phone Booth](#)

By Jennifer A. Dlouhy and Erik Wasson

The White House budget office is investigating spending on a \$43,000 secure phone booth in EPA Administrator Scott Pruitt's office.

TODAY'S NEWS

[Minnesota Farmers Suspicious About Long-Awaited Nitrate Rule](#)

By Stephen Joyce

Lingering concerns over past regulatory actions and a push by Minnesota's departing governor to finish a drinking-water rulemaking are raising state farmers' suspicions over an anticipated nitrate rule that's nearly 30 years in the making.

[Aircraft Parts Maker Rohr Inc. Shoots Down Asbestos Claims](#)

By Peter Hayes

Aircraft parts maker Rohr Inc. won dismissal of asbestos exposure claims brought by a former Air Force mechanic.

[Weyerhaeuser Loses Bid to End 'Community' Asbestos Cases](#)

By Steven M. Sellers

Weyerhaeuser Co. must face claims by two former workers that their illnesses were caused by "community" asbestos exposures outside company facilities, the U.S. District Court for the Western District of Wisconsin said.

TUESDAY NIGHT WRAPUP

[EPA Accused of Illegally Narrowing Toxic Risk Reviews](#)

By Steven Gibb

Environmental advocates detailed their legal challenges to EPA chemical policies April 16, asserting in opening briefs that the agency is illegally ignoring some public exposures to chemicals as it evaluates their safety.



Redefining EPA

Overhauling an agency and its mission

<https://insideepa.com/agency-at-a-crossroads>

TSCA Tracker

<http://insideepa.com/specials/tsca-tracker>

Latest News

EPA, Environmentalists At Odds Over Response Schedule For CRA Petitions

EPA and environmental justice groups are at odds over how a federal judge should implement her sharply worded order finding the agency violated its regulatory requirements to issue preliminary findings responding to several Civil Rights Act (CRA) discrimination petitions within 180 days, with the parties split over whether EPA has a mandatory duty to respond to such petitions within the deadline.

Daily Feed

Democrats join resolution urging Pruitt to resign

At least 170 Democratic lawmakers are supporting the resolutions, including 39 senators -- the highest number to formally call for the ouster of a Cabinet official.

EPA children's health advisors target lead exposures

CHPAC will review its prior advice to EPA on reducing childhood lead exposures as federal health officials prepare to tighten the action level for when to initiate public health protections.

Quote-Unquote: Mostly about EPA's regulatory programs

Focusing on science, easing NAAQS compliance, changes in risk analysis and TSCA rules.

Environmentalists launch suit challenging EPA's TSCA rules

The lawsuit alleges that the Trump EPA's rules violate a requirement to conduct a holistic review that considers all of a chemical's uses.

Greenwire

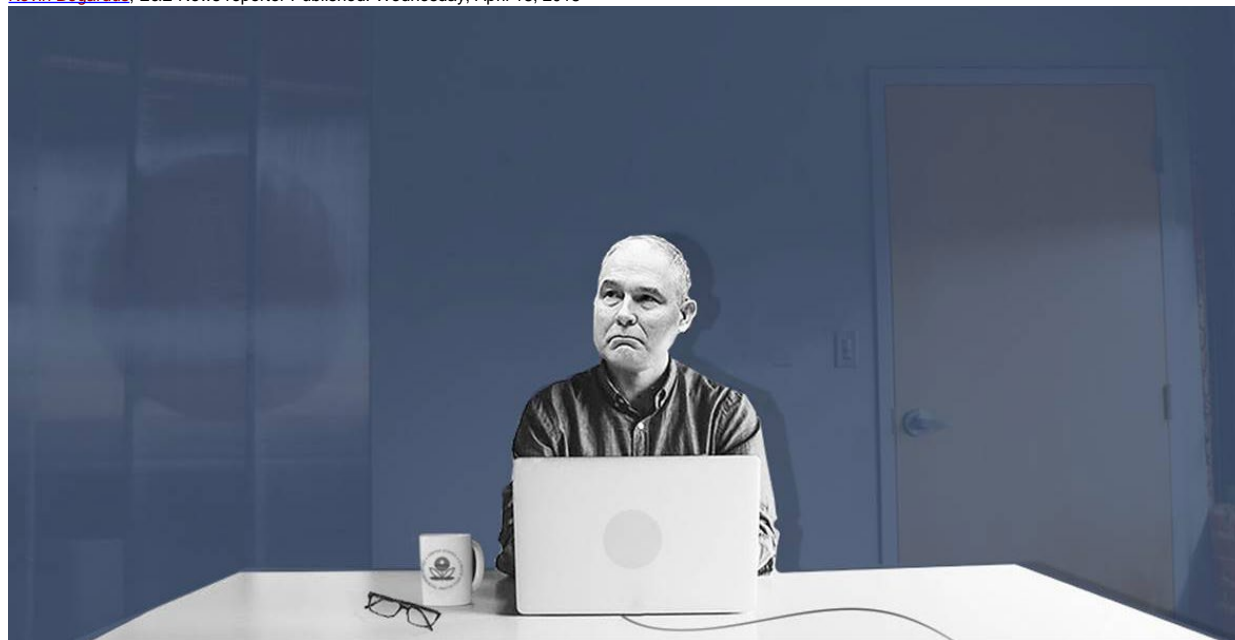


AN E&E NEWS PUBLICATION

EPA

What inspires those pesky alias emails

Kevin Bogardus, E&E News reporter Published: Wednesday, April 18, 2018



EPA Administrator Scott Pruitt's alias email accounts are under scrutiny. Claudine Hellmuth/E&E News (illustration); C-SPAN (Pruitt); Pexels/Startup Stock Photos (office);Pixabay (mug/glasses)

Grandchildren, hometowns, even tofu — all have served as fodder for senior EPA officials' alias email addresses that stretch to past administrations. Ethics allegations of excessive spending requests and misuse of his Cabinet-level position have swamped Administrator Scott Pruitt in recent weeks, but a familiar problem for past EPA chiefs has cropped up for Pruitt, as well: emails. His use of several email accounts has sparked questions from Democrats and Republicans on Capitol Hill, but the use of secondary addresses has been common practice for top agency officials past and present. Marcus Peacock, who served as deputy administrator at EPA during the George W. Bush administration, had a backup email address at the agency, Tofu@epa.gov.

Tofu? He told E&E News he wanted to keep with EPA tradition and finds the bean curd product to be tasty.

"For consistency, I decided to keep the 'to' designation at the beginning," said Peacock, who is now executive vice president of the Business Roundtable.

"However, I wasn't sure what to put as a name after my 'to' and just decided to end it with 'fu' — figured it would be easier to remember that way. Plus, it is not bad on a salad."

Peacock noted Stephen Johnson, the EPA administrator he served under, also had a secondary account, ToCarter@epa.gov, which he assumed was a family name.

In a 2013 interview with E&E News, Johnson declined to confirm that address or say why it was selected. Yet included in Johnson's EPA [biography](#) online are the

names of Johnson's five grandchildren — including one named Carter ([Greenwire](#), March 1, 2013).

The Washington Post [reported](#) last week that Pruitt had been assigned four email addresses, including one playing off the Oklahoma Sooners, a college football team from Pruitt's home state. EPA officials have said that all of Pruitt's accounts have been searched in response to Freedom of Information Act requests, and one of them is no longer even being used.

Other past administrators used secondary EPA email accounts, like Christine Todd Whitman with ToWhit@epa.gov. So did Gina McCarthy, who used Adm13McCarthy.gina@epa.gov for daily emails.

The most famous one, however, was "Richard Windsor," used by President Obama's first EPA chief, Lisa Jackson, merging a family pet's name and where she once lived, East Windsor, N.J.

Christopher Horner, a senior fellow at the Competitive Enterprise Institute and a member of President Trump's EPA transition team, helped uncover Jackson's alias address through FOIA requests. He told E&E News that Pruitt's multiple email accounts could only be troublesome if they're not being searched in response to requests.

"It's not the number of accounts but how you use them," Horner said. "I see no mention of an account used to create federal records in a fictitious name without the required tag identifying the actual party, which accurately describes 'Richard Windsor.'"

Horner added, "We found no indication the Richard Windsor account was being searched for FOIA requests before we sued. I suspect there was no Post-it note in the FOIA office saying 'Richard Windsor = Lisa Jackson.'"

EPA circles wagons for Pruitt

EPA has pushed back on concerns related to Pruitt's email accounts. In an email sent to reporters yesterday, EPA spokesman Jahan Wilcox included the subject line "Standard Practice Since The Clinton Administration" and linked to a 2012 [article](#) from *Politico* saying President Clinton's EPA administrator, Carol Browner, even had two email accounts.

Secondary accounts are allowed under federal records guidance. A 2013 [bulletin](#) from the National Archives and Records Administration said they must be kept up to federal record-keeping standards, linked to their individuals and should have the full name or a "readily identifiable nickname" of that person.

Still, lawmakers have had questions about Pruitt's email accounts.

Senate Environment and Public Works Chairman John Barrasso (R-Wyo.) sent a [letter](#) to the administrator asking about the secondary addresses. And last week, Sens. Tom Carper (D-Del.), the EPW panel's ranking member, and Jeff Merkley (D-Ore.) [asked](#) the EPA inspector general to investigate if all of Pruitt's accounts were being searched in response to FOIA requests.

EPA IG spokesman Jeff Lagda told E&E News that Carper and Merkley's letter on Pruitt's email accounts is still under review by the watchdog office and declined to comment further.

Pruitt's alias emails might not be getting much use after all.

Peacock remembered that while interest groups were known to flood senior EPA officials' inboxes, leading to the creation of the secondary accounts, that wasn't the case for him while at the agency.

"While the comment section of my EPA blog was 'attacked' a couple of times, I don't recall my email ever being flooded, so I don't think I ever had to resort to using Tofu," Peacock said.

EPA

"'Drain the swamp' means polluting more' — ex-deputy chief

[Mike Soraghan](#), E&E News reporter



Published: Wednesday, April 18, 2018

Former EPA official Stan Meiburg, shown here in a file photo, spoke yesterday at Elon University in North Carolina. [Wake Forest University](#)

ELON, N.C. — Stan Meiburg doesn't like what's happening at EPA — the agency he called home for just shy of 40 years. He says it's "pretty obvious" the current presidential administration's policy is to "destroy" the agency he helped to lead as a career official.

But the agency's former second-in-command came to this tiny college town in the middle of North Carolina yesterday to talk about the future.

"I personally do not believe that the current period of hostility to environmental protection will endure," Meiburg said in an Earth Week lecture at Elon University. "When it ends, there will be some rebuilding to do."

Meiburg now lives and works about an hour to the west, at Wake Forest University in Winston-Salem. He's the school's director of graduate programs in sustainability ([Greenwire](#), Feb. 2, 2017). He spoke at Elon University as part of the school's Earth Week events.

In his lecture, "The Future of Environmental Protection," he compared and contrasted the different models of environmental enforcement, from "laissez-faire" to "command and control."

What EPA needs in the future, he said, is "all of the above."

To explain his approach, he recalled working at the Centers for Disease Control and Prevention (CDC). He found that the difference in the agencies was that "CDC is run by doctors. EPA is run by lawyers."

In the future, he said, "EPA will have to become more like CDC."

That means diagnosing a problem, and then picking from a variety of tools to address it, he said. The agency shouldn't give up tools, he said, but it should use different tools for different situations.

For the future, he said, environmental protection will require strong national standards but also a strong network of state regulators. Agencies will need to be able to absorb a flood of new information made available by technology into existing strategies. And they will need superior communicators who can figure out a community's concerns and address them.

Meiburg's faith in the future contrasted sharply with his take on how the agency is being run by President Trump and his EPA chief, Scott Pruitt.

The soft-spoken Meiburg voiced many of the sharp policy criticisms of Pruitt and Trump's detractors — that the "back to basics" approach is undermined by deep budget cuts, that the administration gives deference to states only when the states give deference to polluters. But he made no reference to the first-class travel and below-market living arrangement that have put Pruitt's job in jeopardy.

He dubbed Trump's "drain the swamp" refrain the "worst political metaphor ever," He quipped: "It's an insult to swamps."

In his telling, that's not because Washington is so bad, but because swamps are so good. They filter water, absorbing harmful pollutants before they get into waterways and drinking water.

"'Drain the swamp' means polluting more," he said.

Meiburg arrived at EPA in 1977, and worked there for most of its existence. He served in several EPA locations, becoming the second person in the agency's history to serve as deputy regional administrator in more than one region. From 2014 to 2017, he served in the agency's No. 2 spot as acting deputy

administrator.

Speaking to a roomful of students, faculty and community members, he also offered some criticism of Democratic leadership. The Obama administration, he said, abandoned a successful partnership with business out of fear that the agency would appear to be too cozy with industry. The program, called "Performance Track," sought environmental solutions that went beyond mere compliance.

But he made it clear that he believes the threat to the agency is something more fundamental than the usual policy swings between Democratic and Republican administrations.

He made a comparison that indirectly challenged Pruitt's frequent assertion that he's dedicated to restoring "the rule of law."

He recalled Bill Ruckelshaus, EPA's first administrator, telling agency employees to remember three things: "Follow the law. Follow the science. And be transparent."

"These three values have remained at the core of EPA," he said, "until, sadly, now."

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